

12027-B

No. 277A040

Date OCT 3 1980

Fee \$ 50.00

October 2, 1980

RECORDATION NO. 12027 B  
Filed 1425

OCT 3 1980 - 12 50 PM

INTERSTATE COMMERCE COMMISSION

Washington, D. C.

Agatha L. Mergenovich, Secretary  
Interstate Commerce Commission  
Washington, D.C. 20434

Dear Ms. Mergenovich:

Enclosed for recordation under the provisions of 49 U.S.C. Section 11303 are two original counterparts and two certified copies of a Lease Agreement for Railcars between XTRA Leasing, Inc. and Richard B. Ogilvie, not individually, but as Trustee of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (the "Sublease"), which Sublease subleases cars leased to XTRA Leasing, Inc. under an Equipment Lease Agreement dated as of July 1, 1980 (the "Master Lease"), which Master Lease was filed with your office at 8:50 AM on July 23, 1980 and was assigned Recordation Number 12027. The Master Lease was amended by Amendment Number 1 to Equipment Lease Agreement (the "Amendment") which Amendment was filed with your office at 9:00 AM on September 5, 1980, and was assigned Recordation Number 12027-A.

A general description of the railroad rolling stock covered by the Sublease is as follows: (200) 4,750 cu.ft. covered hopper railcars, bearing identification marks MILW 101700 through MILW 101899, both inclusive.

The names and addresses of the parties to the Sublease are:

Sublessor: XTRA leasing, Inc.  
c/o X-L-CO., INC.  
60 State Street  
Boston, Massachusetts 02109

Sublessee: Richard B. Ogilvie, not individually,  
but as Trustee of the property of  
Chicago, Milwaukee, St. Paul and  
Pacific Railroad Company, Debtor  
874 Union Station  
516 West Jackson Boulevard  
Chicago, Illinois 60606

The undersigned is an executive officer of the Sublessor which is a party to the enclosed document and has knowledge of the matters set forth herein.

OCT 3 12 44 PM '80  
I.C.C.  
FELOPERATION BR.

RECEIVED

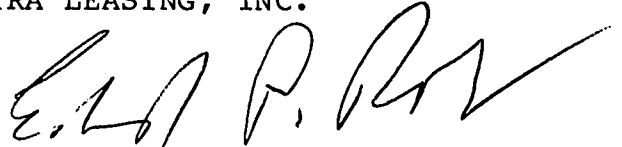
*Copy to: C.T. Karpul*

Please return the original counterparts of the Sublease to Charles T. Kappler, Alvord and Alvord, Sixteenth Street, N.W., Washington, D.C. 20006.

Also enclosed is a check in the amount of \$50 covering the required recording fee.

Sincerely,

XTRA LEASING, INC.

A handwritten signature in black ink, appearing to read 'E. P. Roberts', with a long, sweeping horizontal stroke extending to the right.

Edward P. Roberts  
President

**Interstate Commerce Commission**  
**Washington, D.C. 20423**

**10/3/80**

**OFFICE OF THE SECRETARY**

**Edward P. Roberts, President**  
**c/o Charles T. Kappler, Esq.**  
**Alvord & Alvord**  
**Sixteenth Street, N.W.**  
**Washington, D.C. 20006**

Dear

**Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **10/3/80** at **12:50pm**, and assigned recordation number(s). **12027-B**

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

COPY

ORIGINAL

LEASE AGREEMENT FOR RAILCARS

RECORDATION NO. *12027B*

FILED 1425

OCT 3 1980 12 50 PM

Dated as of September 16, 1980

INTERSTATE COMMERCE COMMISSION

between

XTRA Leasing, Inc.

and

Richard B. Ogilvie, not individually, but as Trustee  
of the property of Chicago, Milwaukee, St. Paul and  
Pacific Railroad Company, Debtor

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LEASE AGREEMENT FOR RAILCARS

Contract #800901

THIS AGREEMENT is dated as of September 16, 1980 and is entered into, in duplicate, between XTRA Leasing, Inc., a Delaware corporation (hereafter "Lessor"), and Richard B. Ogilvie, not individually, but as Trustee of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company Debtor, a Wisconsin Corporation (hereinafter "Lessee")

W I T N E S S E T H:

1. Scope of Agreement. This Agreement covers the use by the lessee of certain railroad rolling stock, namely, 200 covered hopper railcars (hereafter "Car(s)") more particularly described in Schedule 1 to Exhibit A attached hereto and by this reference made a part hereof.

2. Term. Lessee's commitment to accept and lease the Cars hereunder shall commence as of the date first above written. All of Lessee's other obligations hereunder (including, but not limited to rental payments) relative to the use and possession of the Cars shall commence as to each Car on the date of delivery of the Car to Lessee (hereafter "Effective Date") and shall continue for a term of 60 months from the date of delivery of the last Car to Lessee unless sooner terminated as provided herein.

3. Delivery and Acceptance. Said Cars shall be delivered by Lessor to Lessee at Clinton, Illinois, Petersburg, Va. and Houston, Texas. Delivery costs, if any, shall be borne by Lessee. Delivery and acceptance of said Cars, or any of them, shall be acknowledged by Lessee in writing by execution and delivery to Lessor of a Certificate of Acceptance, in form and substance identical to Exhibit A.

4. Rent. For the use of the Cars referred to in Section 1 above, Lessee shall pay to Lessor monthly rental with respect to the Cars at the rates and subject to the conditions specified in Exhibit B attached hereto and by this reference made a part hereof.

In the event any amounts due hereunder shall not be paid promptly when due, Lessee shall pay Lessor interest on such overdue amount from the due date thereof to the date of payment thereof at a rate equal to the lesser of (i) 18% per annum or (ii) the maximum rate permitted by law.

5. Markings.

A. The Cars shall bear the reporting marks of the Lessee and prior to delivery of the Cars to the Lessee, Lessor shall cause each Car to be plainly marked (with proper changes as from time to time may be required to protect the interests of Lessor, any secured party or any assignee of either Lessor or any secured party) in such a manner as to clearly and conspicuously show the interests of Lessor or any secured party in such Car. In addition, the Lessor shall be responsible for placement of any markings on the Cars required by the Interstate Commerce Commission ("ICC"), and the Interchange Rules ("Interchange Rules") and the Code of Car Service and Car Hire Rules - Freight ("Code of Rules") of the Association of American Railroads ("AAR"). If any such marking shall at any time be removed, defaced or destroyed, Lessee shall immediately cause it to be restored or replaced at Lessee's cost.

B. Other than as required for restoration or replacement of markings as set forth in Section 5A, Lessee shall not place, nor permit to be placed, upon the Cars any lettering or marking of any kind without Lessor's prior written consent.

6. Maintenance, Repairs and Damage, Reports

A. Except as otherwise provided in this Agreement, Lessor agrees to maintain the Cars at its expense in good condition and repair in accordance with the Interchange Rules, the Code of Rules and the relevant rules and regulations of the ICC, the Department of Transportation ("DOT") and the Federal Railroad Administration ("FRA"). Lessee shall promptly forward all maintenance and repair bills to Lessor. Any manufacturer's warranties with respect to the Cars shall inure to the benefit of Lessor. Lessee will make the Cars and Lessee's records with respect thereto available to Lessor at any reasonable time on request for the purpose of inspection and to ensure regular maintenance in accordance with the Lessor's maintenance responsibility. The Lessee will be responsible for all costs of transporting the Cars to and from maintenance facilities when Lessee is responsible for the repair or maintenance under Section 6B hereof but only if it is jointly agreed that it is more economical to repair the Car or Cars at a facility other than Lessee's facilities. In no event shall Lessor be required to pay Lessee for transporting any Car or Cars over Lessee's lines to or from any maintenance facility.

B. Lessor's obligation to maintain the Cars under Section 6A will not extend to mandatory changes of design of any of the Cars, their components, configurations or safety appliances or other changes required by legislation or regulations effective after the Effective Date for the Car in question, nor will Lessor's obligations extend to repair or maintenance required as a result of, or attributable to: (i) damage caused by the Lessee, its agents or representatives or any third party (other than a railroad), or while any Car is in Lessee's possession; (ii) damage caused to the Cars by any corrosive or abrasive substance loaded therein or used in connection therewith; (iii) damage caused to the Cars by open flames, vibrations, sledges or other similar devices during loading or unloading; (iv) excessive or unbalanced loading; and (v) special interior linings, interior loading devices and removable parts, if any.

C. The Lessor shall bill the Lessee for any charges for repairs made to the Cars because of damage caused in any of the circumstances set forth in Section 6B; such bills will become payable by Lessee upon receipt. In the case of damage caused to the Cars which is the responsibility under the Interchange Rules of a third-party railroad, the Lessor will perform the necessary repairs and will prepare and submit such documents as are necessary to recover the cost of such repair in accordance with the Interchange Rules with owner-responsibility repairs billed against the Lessor. The Lessor will be solely entitled to any costs so recovered.

D. Lessee will, at Lessor's request, take such reasonable action as Lessor will specify to modify operating conditions within Lessee's control which, in Lessor's reasonable opinion, are causing undue and avoidable wear or damage to the Cars. In particular, Lessee agrees to preserve the Cars in at least as good condition as railcars of similar class and design, engaging in operations normal to the Lessee's industry, and the Lessee will not alter the physical structure of any of the Cars without the prior written consent of Lessor. Lessee agrees that, in the use of the Cars in the conduct of its business, the Lessee will not discriminate in the operation, use and maintenance between the Cars and other comparable railcars owned, leased or managed by the Lessee. The Lessee agrees to give to Lessor prompt written notice of the need to repair or maintain any Car without regard to the party required by this Agreement to make such repair or perform such maintenance.

E. At such times and in such detail as Lessor may reasonable request (and in any event on every November 30th on which this Agreement is in effect) Lessee will furnish to Lessor the following information as to each Car (identified by Car number) as of a date no earlier than thirty days preceding the delivery of such information to Lessor:

(i) the number of Cars then subject to this Agreement, (ii) which Cars have suffered an Event of Loss (as hereinafter defined) and (iii) which Cars are currently undergoing repairs, other than running repairs, reasonably estimated to cost \$15,000 or more, or which have been withdrawn from service awaiting such repairs, stating the condition, status and location of such Cars.

Not later than 90 days after furnishing the above information Lessee shall inform Lessor as to the condition, status and location of the Cars referred to in sub-clause (iii) above.

F. If any of the Cars are (i) unavailable for use as a result of partial casualty (less than complete destruction) or failure of Lessor properly to maintain and repair the Cars for any reason unrelated to the exceptions referred to in Section 6B, and (ii) reported by the Lessee to the Lessor as in need of repair, the total amount of monthly rental charges for such Car or Cars shall abate from and after a period of five (5) days from the date when each such Car arrives at a maintenance facility until it is reported to Lessee to be ready for service on the interchange system or replaced by another Car. At Lessor's option, this Agreement may be terminated as to any such Car and, if so terminated, such Car need not be repaired or replaced. Lessor shall have the right, but shall not be obligated, to substitute for any of the Cars which shall be so damaged or destroyed, another Car of similar type, capacity and condition.

#### 7. Compliance with Laws and Rules.

A. Lessee shall, at its own cost and expense, comply with all governmental laws, regulations and requirements, with the Interchange Rules and Code of Rules, and with the rules and regulations of the FRA, the ICC and the DOT with respect to the use and operation of each of the Cars. Any part or parts installed or replacements made upon any of the Cars by Lessor or Lessee, shall be considered accessories to the Cars, and title thereto shall immediately be vested in Lessor (or a Financing Entity, as hereinafter defined) without further cost or expense to Lessor.

B. Lessee will not permit the percentage of usage of the Cars in any calendar year outside the geographical boundaries of the United States to exceed 20% (determined on the basis of the number of Car-days of such outside usage as compared with the number of Car-days in such calendar year. For purposes of this Section, a "Car-Day" shall mean one day in which any one Car is subject to this Agreement). Notwithstanding the foregoing, no Car shall be used "predominantly outside the United States" within the meaning of Section 48(a) of the Internal Revenue Code of 1954, as amended; nor shall Lessee permit the use of any Car by any person if such use would cause the Car to fail to qualify as "Section 38 property" within the meaning of such Code.

#### 8. Event of Loss.

A. In the event that any Car shall be or become damaged beyond repair, destroyed, lost, stolen, confiscated or permanently rendered unfit for use for any reason whatsoever, or title thereto shall be requisitioned or otherwise taken by any governmental authority (any of such occurrences being referred to as an "Event of Loss"), such Event of Loss shall promptly be reported by the Lessee to the Lessor. Lessor reserves the right to make the final determination as to whether an Event of Loss has in fact occurred.

B. Responsibility for any Event of Loss to the Cars shall be fixed by the then prevailing Interchange Rules and Code of Rules. Said Rules and the settlement value set forth therein ("Settlement Value"), shall establish the amount of recovery, rights, obligations and liabilities of Lessee, Lessor and any railroad subscribing to such Rules and moving the Cars over its lines in respect of all matters to which said Interchange Rules and Code of Rules relate. In the event that an Event of Loss occurs for which it is established that Lessee is responsible, Lessee shall promptly pay to Lessor the value of such Car in accordance with such Settlement Value. Lessor and Lessee agree to cooperate with and assist each other in any reasonable manner requested in the event of an Event of Loss to any of the Cars, provided only that the respective obligations of Lessor and Lessee under this Section 8 shall not be altered.



9. Indemnities and Insurance.

A. Lessee agrees to indemnify and hold harmless Lessor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever (whether as a result of damage to the Cars or injury to third parties), regardless of the cause thereof, and any expense in connection therewith, including legal fees, arising out of, or as a result of, the use or operation of the Cars during the term of this Agreement. In addition, the Lessor will not be liable for any defect or omission in the construction or manufacture of the Cars or any material incorporated therein by the manufacturer thereof or any component thereof.

B. Lessor shall not be liable for any loss of or damage to commodities, or any part thereof, loaded or shipped in the Cars, however such loss or damage shall be caused or shall result. Lessee agrees to assume responsibility for, to indemnify Lessor against, and to hold Lessor harmless from any such loss or damage, or claim therefor, and to assume responsibility for any damage caused to the Cars by such commodities.

C. The Lessee agrees that it will at all times during the term of this Agreement and during any return and storage period hereunder and at its own cost and expense keep each Car insured against such risks and in such amounts as are customarily insured against by railroad companies, and in any event insured in the same manner and to the same extent that the Lessee insures other similar equipment which it owns or leases, and will maintain general public liability insurance with respect to the Cars against damage because of bodily injury, including death, or damage to property of others, such insurance to afford protection to the limit of not less than \$20,000,000 in the aggregate in any single occurrence. Any such property insurance may have deductible provisions to no greater extent than \$2,000,000 in the aggregate in any single occurrence, and any public liability insurance may have deductible provisions to no greater extent than \$2,000,000 in the aggregate in any single occurrence. All such insurance shall name the Lessor, as an additional insured and shall protect the Lessor and the Lessee in respective risks arising out of the condition, maintenance, use, ownership and operation of the Cars and shall provide that losses, if any, in respect to the Cars shall be payable to the Lessee and the Lessor, as their respective interests may appear. All policies of insurance maintained pursuant to this Section shall provide that 30 days' prior written notice of cancellation shall be given to the Lessor, and that such insurance as to the interest of the Lessor, shall not be held liable for insurance premium payments or deductible loss amounts under such policies. The loss, if any, shall be adjusted only with the approval of the Lessee and the Lessor. All such policies shall provide that the loss, if any, thereunder shall be adjusted and paid as provided in this Agreement. The Lessee shall further furnish the Lessor with certificates or other satisfactory evidence of maintenance of the insurance required hereunder and with respect to any renewal policy or policies shall furnish certificates evidencing such renewal prior to the expiration date of the original policy or policies. All insurance provided for in this Section shall be effective with insurance companies approved by the Lessor which approval shall not be unreasonably withheld.

D. The proceeds of any property insurance received by the Lessor will be paid to the Lessee either (i) upon a written application signed by the Lessee for payment of, or to reimburse the Lessee for payment of, the costs of repairing or restoring a Car which has been damaged (which application shall be accompanied by satisfactory evidence of such cost and the completion of such repair or restoration) or (ii) if this Lease is terminated with respect to a Car because of an Event of Loss thereof promptly upon payment by the Lessee of the Settlement Value; provided that, if the Lessee is at the time of the application in default in the payment of any other liability of the Lessee to the Lessor hereunder, such proceeds may be applied against such liability.

10. Disclaimers.

A. Lessor will not be liable to Lessee for delay in delivery or loss of use of any Car or Cars, regardless of the cause thereof. Lessor's obligation to furnish Cars shall be contractually excused in the event that any failure to deliver any Car or Cars results from events or factors beyond the control of Lessor.

B. LESSOR SHALL HAVE NO LIABILITY TO LESSEE FOR ANY CLAIM, LOSS, INJURY OR DAMAGE CAUSED OR ALLEGED TO BE CAUSED DIRECTLY, INDIRECTLY, INCIDENTALLY OR CONSEQUENTIALLY BY THE CARS, BY ANY INADEQUACY THEREOF OR DEFICIENCY OR DEFECT THEREIN, BY ANY INCIDENT WHATSOEVER IN CONNECTION THEREWITH, ARISING IN STRICT LIABILITY OR OTHERWISE, OR IN ANY WAY RELATED TO OR ARISING OUT OF THIS AGREEMENT INCLUDING LIABILITY ARISING FROM ANY ACT OR OMISSION OF LESSOR OTHER THAN FROM LESSOR'S NEGLIGENCE. LESSOR MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE CARS, AND EXPRESSLY DISCLAIMS SAME.

11. Taxes.

A. The Lessee agrees to pay and to indemnify the Lessor for, and hold the Lessor harmless from and against, all income, franchise, sales, use, ad valorem, value added, property, leasing, leasing use, stamp or other taxes, levies, imposts, duties, customs, switching, demurrage or other charges by any governmental, railroad or other agency; or withholdings of any nature, together with any penalties, fines or interest thereon ("Impositions"), arising out of the transactions contemplated by this Lease and imposed against the Lessor, the Lessee or any Car by any Federal, state, local or foreign government or taxing authority upon or with respect to any Car or upon the sale, purchase, ownership, delivery, leasing, possession, use, operation, return or other disposition thereof, or upon the rentals, receipts or earnings arising therefrom, or upon or with respect to this Agreement (excluding, however, taxes on, or measured solely by the net income of the Lessor, state sales or use taxes, if any, imposed on or for the account of the Lessor in connection with the purchase of the Cars and any taxes, fees or other charges imposed on or for the account of the Lessor by reason of any transfer of any interest in the Cars by the Lessor while no Event of Default shall have occurred and then be continuing.) If a claim is made against the Lessee or the Lessor for any Imposition, the party receiving notice of such claim shall promptly notify the other. In case any report or return is required to be made with respect to any obligation of the Lessee under this Section or arising out of this Section, the Lessee will either (after notice to the Lessor) make such report or return in such manner as will show the ownership interest of the Car and send a copy of such report or return to the Lessor or will notify the Lessor of such requirement and make such report or return in such manner as shall be satisfactory to the Lessor. The Lessor agrees to cooperate fully with the Lessee in the preparation of any such report or return.

B. (1) This Agreement has been entered into on the assumption that Lessor or certain financing entities (mortgagee, trustee, pledgee or security holder - "Financing Entity") may be entitled to receive, with respect to any or all of the Cars, such deductions, credits and benefits from the investment tax credit (the "Investment Credit") allowed by Sections 38 and 46-50 of the Internal Revenue Code of 1954, as amended (the "Code") as well as certain depreciation deductions allowed under Section 167 ("Depreciation Deductions") of the Code. Lessee explicitly agrees that it will not commit any act (except as expressly permitted by this Agreement), or fail to take any action, as a result of which all or any portion of such Investment Credit or Depreciation Deductions might be lost.

Lessee hereby agrees to pay and to indemnify Lessor and any Financing Entity for, and hold the same harmless from and against, any loss in the use of the maximum Investment Credit or Depreciation Deductions allowable under the Code with respect to any or all of the Cars which is the result of any such act or omission by Lessee.

(2) This Agreement has also been entered into on the assumption that all amounts includible in the gross income of Lessor, or any Financing Entity and all deductions and credits allowable with respect to the Cars (including interest deductions) will be

treated as derived from, or allocable to, sources within the United States. Lessee hereby agrees to pay and to indemnify Lessor and any Financing Entity for, and hold the same harmless from, any loss in the use of foreign tax credits which results from any item of income or deduction with respect to the Cars being ineligible for treatment as derived from, or allocable to, sources within the United States for a given tax year.

12. Assignment, Title to Cars.

A. Lessee hereby consents to an assignment by the Lessor of this Agreement or any portion of its interest herein to the United States Trust Company of New York, not in its individual capacity but solely as Trustee ("Lessor's Assignee"), and with respect to such assignment, the Lessee agrees:

(1) to make all payments due hereunder directly to such Lessor's Assignee (or to a person or entity designated in writing by such Lessor's Assignee) upon written notice from the Lessor's Assignee (or a person or entity so designated).

(2) to execute and file, or to cause others to execute and file, any financing statements, continuation statements or other documents necessary to create, perfect, protect, and preserve the prior security interest of such Lessor's Assignee (or its successors or assigns) for the duration of such assignment. Any filing fees in connection with the above shall be at the expense of Lessor.

B. Lessee acknowledges and agrees that by execution of this Agreement it does not obtain, and by payment and performance hereunder it does not and will not have or obtain, any title to the Cars or any of them at any time subject to this Agreement, nor any property, right or interest therein, legal or equitable, except solely as Lessee hereunder and subject to all of the terms hereof. Lessee shall keep the Cars free from all encumbrances, liens and security interests of all kinds which could adversely affect Lessor's or Financing Entity's title thereto or security interest therein. Lessee will promptly notify Lessor of any such encumbrance, lien or security interest which may have attached to any of the Cars as soon as Lessee shall have become aware of same.

13. Sublease. The Lessee will not, without the prior written consent of the Lessor, sublet or otherwise relinquish possession (except in regular railroad interchange) of any Car or assign any of its rights hereunder. No sublease, other relinquishment of the possession of any Car, or assignment by the Lessee of any of its rights hereunder shall in any way discharge or diminish any of the Lessee's obligations to the Lessor hereunder, and all representations, warranties, covenants and conditions of the Lessee under this Agreement shall be assumed by, and become the obligations of, any sublessee or assignee of the Lessee.

14. Further Information. Upon the request of Lessor, Lessee agrees to furnish Lessor promptly with complete and accurate information reasonably required for the efficient administration of this Agreement.

15. Events of Default.

The term "Event of Default", wherever used herein, shall mean any of the following events under this Agreement (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary, or come about or be effected by operation of law, or be pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) The Lessee shall fail to make any payment required herein to be paid by Lessee within 10 days after the same shall become due; or

(b) The Lessee shall fail to perform or observe any other covenant, condition or agreement to be performed or observed by it under this Agreement, or any document delivered by the Lessee in connection therewith, and such failure continues for more than 15 days after written notice from Lessor (in

the event the Lessor has actual knowledge of any such failure by the Lessee, it shall promptly send written notice thereof to the Lessee); or

(c) Any representation or warranty made by the Lessee in this Agreement or any agreement, document or certificate delivered by the Lessee in connection herewith or therewith shall prove to have been incorrect in any material respect when any such representation or warranty was made or given; or

(d) The Lessee shall (except as expressly permitted by the provisions of this Lease) attempt to remove, sell, transfer, encumber, part with possession of, assign or sublet any Car.

Lessee agrees that it will, promptly upon any responsible officer's becoming aware of any event or condition which constitutes an Event of Default, or which, after notice or the passage of time, or both, would constitute an Event of Default, furnish Lessor with a written notice specifying such event or condition, the nature and status thereof and the action taken or proposed to be taken by Lessee in respect thereof. Failure or delay of Lessor to require full compliance with any one or more of the terms of this Agreement shall not be interpreted as a waiver of those terms or of Lessor's right to subsequently insist on full compliance therewith or to take such action as might be lawfully authorized hereunder, either at law or in equity.

#### 16. Remedies.

Upon the occurrence of any Event of Default and so long as the same shall be continuing, Lessor may, at its option, declare this Agreement to be in default by written notice to such effect given to Lessee, and at any time thereafter, Lessor may exercise one or more of the following remedies, as Lessor in its sole discretion shall lawfully elect:

(a) Proceed by appropriate court action, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Agreement and to recover damages for the breach thereof; or

(b) By notice in writing terminate this Agreement, whereupon all rights of the Lessee to the use of the Cars shall absolutely cease and terminate but Lessee shall remain liable as hereinafter provided; and thereupon Lessor may cause Lessee at its expense promptly to return the Cars to the possession of Lessor at such place as the Lessor shall designate on Lessee's line and in the condition required upon the return thereof pursuant to and in accordance with the terms of Section 17 hereof, or the Lessor, at its option, may retake the Cars wherever said Cars may be found and irrespective of whether Lessee, any sublessee or any other person may be in possession of such Cars, all without notice to Lessee and without legal process, and for that purpose Lessor or its agent may enter upon any railroad or other premises where any Car may be and may take immediate possession of and remove such Car. Lessee shall, without further demand, forthwith pay to Lessor an amount equal to any unpaid rental or other amounts due and payable hereunder.

(c) Lessee shall be liable for all costs and expenses, including reasonable attorneys' fees and disbursements, incurred by reason of the occurrence of any Event of Default or other exercise of Lessor's remedies with respect thereto.

17. Return of Cars. Upon termination of this Agreement at the expiration of the original lease term as set forth in Section 2 hereof, Lessee, at its sole expense, shall return each of the Cars, and each part thereof, to Lessor at any location on Lessee's line as specified by Lessor, (i) empty

and free from residue, (ii) in such order and condition (ordinary wear and tear excepted) as will permit Lessor to immediately sell or re-lease the Cars without repair (other than repairs Lessor is required to make under this Agreement and for which Lessee has given appropriate written notice), (iii) in a suitable condition for the hauling of commodities that the Cars are designed, intended and customarily used to transport and (iv) in such condition as is necessary to have the Cars comply with all applicable laws and regulations. Lessee shall, on demand, reimburse Lessor for the costs necessary to make any of the Cars comply with the standards of this Section. Such Cars, upon redelivery pursuant hereto, shall be free and clear of all mortgages, liens, security interests, charges, claims or other encumbrances ("Liens") other than Liens either (a) created or granted by the Lessor, including any such Liens created or granted in connection with the purchase or financing of the Cars, or (b) resulting from claims against the Lessor not related to the Lessor's ownership of the Cars (Liens described in clauses (a) and (b) above being herein referred to as "Lessor's Liens"). If the Lessee shall have affixed or installed any improvement to any Car redelivered pursuant hereto, the Lessee will on or before the date of redelivery and at its own expense, remove such improvement if requested to do so by the Lessor.

18. Holdover. In the event that any Car is not redelivered to Lessor on or before the date of expiration of the original lease term set forth in Section 2, at Lessor's sole option, the term hereof as to such Car may be deemed to be extended on a month to month basis (hereafter "Holdover Period") and all of the obligations of Lessee under this Agreement, with respect to such Cars shall remain in full force and effect until all Cars are redelivered to Lessor. Lessor may at any time during the Holdover Period terminate this Agreement and take possession of the Cars upon demand after 30 days written notice to Lessee.

19. Option to Terminate.

Commencing six (6) months from the date of delivery of the last Car delivered to Lessee hereunder, either party hereto may terminate this Agreement upon sixty (60) days prior written notice to the other party (the "Option"). If Lessee exercises this Option prior to the expiration of the original lease term set forth in Section 2 hereof, Lessee shall store the Cars at its expense until such time as they are re-leased by Lessor or until the expiration of 180 days, whichever comes first, and Lessee shall comply with all obligations with respect to the condition of the Cars as set forth in Section 17 hereof.

20. Miscellaneous.

A. Both parties agree to execute the documents contemplated by this transaction and such other documents as may reasonably be required in furtherance of this Agreement.

B. This Agreement shall be governed by and construed according to the laws of the State of Delaware.

C. All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States mail, postage prepaid, certified or registered, addressed to the other party at the following address: if to Lessor: XTRA Leasing, Inc. c/o X-L-CO., INC., 60 State Street, Boston, Massachusetts 02109. If to Lessee: Richard B. Ogilvie, not individually but as Trustee of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, 874 Union Station, 516 W. Jackson Blvd., Chicago, Illinois 60606 or to such other address as the parties hereto may provide in writing.

D. This Agreement and any Exhibits made a part hereof contain the entire agreement between Lessor and Lessee with respect to Lessee's use and possession of the Cars, and all prior understandings, terms or conditions are deemed merged in this Agreement. Any agreement hereafter made between Lessor and Lessee shall be ineffective to

change, modify, waive, release, discharge, terminate or effect an abandonment of this Agreement, in whole or in part, unless such agreement is in writing and signed by a duly authorized officer of the party against whom enforcement of the change, modification, waiver, release, discharge, termination or the effecting of the abandonment is sought.

E. This Agreement and each and every condition and agreement herein contained shall be binding upon and inure to the benefit of the respective successors in interest and permitted assignees of Lessor and Lessee.

F. Notwithstanding anything to the contrary contained in this Agreement, this Agreement is binding on Richard B. Ogilvie, Trustee of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, not individually but solely as such Trustee appointed in the Debtor's reorganization proceedings presently pending in the United States District Court for the Northern District of Illinois, Eastern Division ("the Court") (No. 77 B 8999), and if before the end of the stated term of the Agreement, Lessee or the Court notifies Lessor that said Court has ordered the termination of the Agreement with respect to all Cars thereunder in connection with the discontinuance of substantially all service and/or the liquidation of the assets of Lessee (the "early termination order"), the Agreement shall be automatically terminated. In such event, Lessee shall be obligated to return the Cars to Lessor and to pay rental and all other payments due under this Agreement in respect of the Cars accrued to the date possession of the Cars is offered to Lessor pursuant to said early termination order, any further obligations of Lessee, for rental or otherwise shall terminate and Lessor shall have no claim against Lessee or the estate of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company for any rental and other payments or other damage claims accruing after that date or, except pursuant to the next following provision for other obligations of Lessee under said Agreement; provided, however, that Lessee shall thereafter continue to be liable in respect to any obligations which accrued under the Agreement prior to such termination and offer of possession until payment or performance of such obligation in full, and provided further, that no company or corporation which is an assignee or successor to Lessee hereunder may exercise any right to terminate the Agreement pursuant to this provision. In the event of an early termination order, the rights afforded Lessor under this Section 20 (F) shall be deemed to be exclusive of all rights and remedies provided by law, however, in that event the obligations of Lessee hereunder shall be treated as an expense of administration in its presently pending reorganization proceedings.

G. Nothing in this Agreement (specifically notwithstanding the provisions of Section 13 hereof) shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Agreement in the Cars or possession of the Cars to (i) any corporation into or with which the Lessee shall have become merged or consolidated or which shall have acquired or leased all or substantially all of the lines of railroad of the Lessee, provided that such assignees, successors or transferees shall have duly assumed the obligations of the Lessee hereunder and that they will not, upon the effectiveness of such merger or consolidation or acquisition of properties and the assumption of such obligations, be in default under any provision of this Agreement and that such merger or consolidation or acquisition of properties shall not alter in any way the Lessee's obligations to the Lessor hereunder which shall be and remain those of a principal and not a guarantor, and (ii) any corporation which assumes the Lessee's interests in and obligations under this Agreement pursuant to a plan of reorganization adopted in Lessee's Reorganization Proceedings, provided that such corporation shall have duly assumed the obligations of Lessee hereunder and that it will not, upon the effectiveness of such plan of reorganization, be in default under any provision of this Agreement and that such plan of reorganization shall not alter in any way the obligations to the Lessor hereunder of any such successor lessee. Upon the due assumption of the obligations of the Lessee hereunder by any permitted party, as aforesaid, Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, shall be relieved of all obligations to pay rental hereunder accruing from and after the date of such assignment or transfer and all other such obligations hereunder as shall arise after said date of assignment or transfer.

Should any part of this Agreement violate or be prohibited by any code, regulation, statute or law of the United States or any state or political subdivision thereof, or of any foreign jurisdiction in which it is intended to operate, that portion shall be deemed in such jurisdiction to be void and of no effect, without affecting the remaining provisions of this Agreement.

IN WITNESS WHEREOF, each of the parties hereto has caused this instrument to be executed and delivered in their respective names by a duly authorized representative, all as of the date first written above.

(Corporate Seal)

ATTEST:

[Signature]  
As Sec.

XTRA Leasing, Inc.

By

Title

Richard B. Ogilvie, not individually but as  
Trustee of the property of Chicago, Milwaukee,  
St. Paul and Pacific Railroad Company, Debtor

ATTEST:

[Signature]  
Secretary

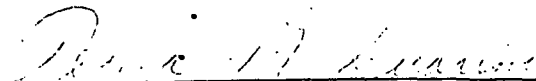
By

Title Trustee

STATE OF MASSACHUSETTS )  
COUNTY OF SUFFOLK ) SS

On this 19th day of September 1980 . . before me  
personally appeared Edward P. Roberts  
to me personally known, who, being by me duly  
sworn, says that he is President  
of XTRA Leasing, Inc.

that one of the seals affixed to the foregoing  
instrument is the corporate seal of said corporation, that said  
instrument was signed and sealed on behalf of said corporation by  
authority of its Board of Directors and he acknowledged that the  
execution of the foregoing instrument was the free act and deed of  
said corporation.



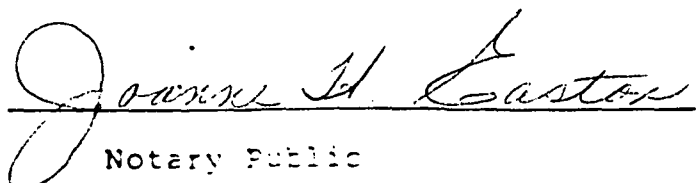
Notary Public

(Notarial Seal)

My Commission expires 2/22/85

STATE OF ILLINOIS )  
COUNTY OF COOK ) SS

On this 17th day of September , 1980, before me  
personally appeared Richard B. Ogilvie, to me personally known,  
who, being by me duly sworn, says that he is Trustee of the Property  
of Chicago, Milwaukee, St. Paul and Pacific Railroad Company,  
Debtor, and that the foregoing instrument was signed by him not  
individually but solely as Trustee of the Property of Chicago,  
Milwaukee, St. Paul and Pacific Railroad Company, Debtor  
and who acknowledged that the execution of the foregoing instrument  
was his free act and deed.

  
Notary Public

(Notarial Seal)

My Commission expires July 24, 1982



EXHIBIT A

CERTIFICATE OF ACCEPTANCE

Under Contract # 800901

LEASE AGREEMENT FOR RAILCARS dated as of September 16,  
1980 (the "Agreement") between XTRA Leasing, Inc. or its designees,  
as lessor (the "Lessor") and Richard B. Ogilvie, not individually, but  
as Trustee of the property of the Chicago, Milwaukee, St. Paul  
and Pacific Railroad Company, Debtor, as lessee (the "Lessee")

1. Cars.

The Lessee hereby certifies that the Car(s) listed below (said Car(s) being one or more of the Cars described in Schedule 1 hereto) have been delivered to the location indicated below, found to be in order and accepted as Cars under the Agreement, all as of the Date of Acceptance set forth below:

Number of Cars: **200**

Location of Cars:

Date of Acceptance: \_\_\_\_\_. This date shall in no event be later than the date evidencing delivery to Lessee set forth in the relevant railroad interchange report.

Richard B. Ogilvie, not individually but as  
Trustee of the property of Chicago, Milwaukee,  
St. Paul and Pacific Railroad Company, Debtor  
as Lessee

By \_\_\_\_\_

Title \_\_\_\_\_

SCHEDULE 1 to

EXHIBIT A

UNDER CONTRACT # 800901

<u>Number of Cars</u>	<u>AAR Mech. Design</u>	<u>Description</u>	<u>Capacity</u>	<u>Numbers</u>	<u>Length</u>	<u>Height</u>	<u>Inside Height</u>	<u>Outside Width</u>
200	LO	covered hopper railcars	4750 cu. ft.	MILW101-700 through MILW101-899	59'11 $\frac{1}{2}$ "	10'0 $\frac{1}{2}$ "	14'10 $\frac{17}{32}$ "	10'7 $\frac{1}{4}$ "

EXHIBIT B

CONTRACT # 800901

The monthly rental payable pursuant to Section 4 of this Agreement for each of the Cars is Five hundred and seventy-four dollars (U.S.\$574.00) per Car per month.

The monthly rental as to each Car shall commence on its Effective Date and shall be computed on a pro rata daily basis for the number of days in any partial month that said Cars, or any of them, were in the possession of Lessee. Succeeding monthly rental payments shall be made by Lessee to Lessor in arrears promptly on the last day of every calendar month of the term of this Agreement; provided however, if the last day of any calendar month shall not be a business day, the relevant payment shall be due on the next business day following such day.

RECORDATION NO. 12037B Filed 1425

OCT 3 1980 - 12 50 PM

State of Massachusetts) ss.  
County of Suffolk )

**INTERSTATE COMMERCE COMMISSION**

I hereby certify that I have examined the original of the attached document, including the signatures, dates and acknowledgements, and that the attached document is a true, correct and complete copy of the original document in all respects.

Doreen M. Guasino  
NOTARY PUBLIC

My Commission Expires: Feb. 22, 1985